

SUPREME COURT OF ARKANSAS

No. 06-06

ARKANSAS DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

PETITIONER,

VS.

THE HONORABLE VANN SMITH,
RESPONDENT,

Opinion Delivered

A PETITION FOR WRIT OF PROHIBITION OR,
IN THE ALTERNATIVE, WRIT OF
CERTIORARI

EXTENSION GRANTED FOR SUBMISSION OF
DOCUMENTATION IN SUPPORT OF
REVIVOR.

PER CURIAM

Appellant, Arkansas Department of Health and Human Services (DHHS), petitions this court for a Writ of Prohibition or, in the alternative, a Writ of Certiorari, to the Circuit Court of Pulaski County, instructing the court that it is without jurisdiction to grant petitioner's request for an increase of her Medicaid Community Spouse Monthly Income Allowance (CSMIA) and Medicaid Community Spouse Resource Allowance (CRSA), before her husband applies for Medicaid.

Karen Blaylock, petitioner at the circuit court level, sought to increase her CSMIA and CRSA in anticipation of her husband's applying for Medicaid benefits after he was allegedly injured in the couple's residence. Karen Blaylock filed an action for relief in the Pulaski County Circuit Court and Alan Blaylock filed an answer urging the court to grant the relief she requested. The Blaylocks contended that the court had jurisdiction to adjust the Medicaid allowances before Alan Blaylock took the appropriate measures to apply for Medicaid benefits. DHHS intervened and moved for summary judgment, maintaining that federal law does not create a justiciable claim within the parameters of the Constitution of Arkansas,

Amendment 80. The circuit court denied DHHS' motion and determined that it had jurisdiction to hear the couple's request for an increase to the allowances. On January 4, 2006, this petition followed.

On January 12, 2006, briefing commenced on the petition. DHHS alleges two points on appeal: (1) that the circuit court does not have subject-matter jurisdiction, and (2) that the proceedings are erroneous and in excess of the jurisdiction of the circuit court. On March 22, 2006, Karen Blaylock submitted a motion asking this court to take judicial notice of certain facts, including that her husband, Alan Blaylock, had died on March 12, 2006. No supporting documentation of Alan Blaylock's death was submitted, and no law was cited to support the contention that the case should be revived in the name of Karen Blaylock. Therefore, this court denied the motion without prejudice. If, however, Alan Blaylock is deceased, this court cannot dispose of the matter without further proceedings.

We grant counsel fifteen days to present to this court: (1) a motion to take judicial notice of the fact that Alan Blaylock is now deceased, with supporting documentation; and, (2) a circuit court order that reflects Karen Blaylock's appointment as the executrix or administratrix of the estate of her deceased husband, Alan Blaylock.